

The complaint

Mrs M has complained that Domestic and General Insurance Plc ('D&G') declined to replace her freezer under her appliance insurance policy.

What happened

Mrs M's freezer unfortunately broke down at the end of September 2024, and she raised a claim with D&G as it was insured her appliance insurance policy at the relevant time. She'd taken out cover with D&G in June 2024. Mrs M said that D&G told her to switch off the freezer, but when an engineer came round four days later, he said he couldn't diagnose the issue as it was switched off. He turned it on and returned, however it was still warm, so he said he'd return, but failed to do so. She called him, but he thought the fan had gone and a part needed to be ordered. Mrs M said she'd called D&G several times regarding the issue.

Six days later, Mrs M was informed that D&G could investigate this claim if she could provide a proof of purchase. She didn't have this as the freezer came with the house when it was purchased in October 2022. D&G didn't uphold her complaint but said that it would refund all premiums. Mrs M wasn't happy with this and referred her complaint to this service.

The relevant investigator upheld Mrs M's complaint and considered that Mrs M had taken reasonable care in answering D&G's questions at the time of her policy purchase. As no exclusion was specified in the policy terms relating to the age of an appliance, she was also of the opinion D&G acted unfairly in declining the claim. Given that the parts needed to repair the freezer were no longer available, she considered that a fair outcome would be for D&G to arrange a replacement item.

As neither D&G nor Mrs M agreed with the investigator's view, the matter has been referred to me to make a final decision in my role as Ombudsman.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The key issue for me to determine is whether D&G applied the terms and conditions of its policy in a fair and reasonable manner in declining Mrs M's claim. I don't consider that it did act in a fair and reasonable manner in all respects, and I'll explain why.

In considering this matter, I've also looked carefully at the submissions of the parties as summarised below. Firstly, turning to Mrs M's submissions, she made it clear that she was without a freezer and couldn't afford a brand new one. When taking out her policy with D&G she thought that if her appliances were to break down, *'repairing them would be the affordable and more convenient option.'* She'd taken care when taking out the policy as she wasn't sure about the dates. She acknowledged that at one of the sales calls, she was told that the appliance had to be purchased within eight years, but she'd already been convinced by a previous D&G team member that a rough indication of when the appliance was

purchased would suffice. She believed the freezer had only been in her property a couple of years prior to its purchase, as the vendors said they'd renovated the house at that time.

Mrs M described her family circumstances and stated that she heavily relied on the freezer to be able to batch cook meals, and that the family was struggling as a result. Ideally, she said she would like to be able to buy a new integrated freezer. She was unhappy with the amount of compensation which the investigator had recommended that D&G should pay, as she'd been without a freezer since September 2024, and she'd experienced a considerable amount of stress due to the impact upon her family circumstances. She also felt that D&G had handled the matter in an unprofessional manner, and she'd had to constantly chase the matter, including having to chase D&G's engineer herself. On the other hand, D&G *'kept ringing me regarding other appliances and if I wanted to take out more policies with themselves which again was frustrating.'*

I now turn to D&G's submissions in response to Mrs M's complaint. It acknowledged that Mrs M had taken out cover for all parts, labour, and call out charges for breakdown, accidental damage, and new for old replacement of her appliances. It said that the policies were being paid by monthly direct debit but were cancelled when it was confirmed that the appliance wasn't eligible for cover.

It acknowledged that inconvenience had been caused to Mrs M during the repair of her freezer. It provided a chronology of events with the first call in June 2024 recording that the freezer may have been purchased around 2019. In the second call a day later, the agent confirmed that only appliances eight years old or less could be covered. The approximate purchase year of 2019 was confirmed. During the engineer's visit in October 2024, D&G recorded that he couldn't fully diagnose the fault due to the freezer being defrosted, and also recording a belief that a new compressor and fan may be required but both were obsolete, and that this appliance was at least 15 years old due to the model and serial number.

In all the circumstances, D&G was satisfied, in the light of the engineer's report, that it had acted reasonably in cancelling the claim. It considered that the freezer was too old to cover and so the claim had also been fairly declined. As to Mrs M's complaint which was raised in October 2024, D&G stated that she'd been unable to provide proof of purchase of the freezer. It said that it nevertheless refunded the premiums paid for this and another appliance *'as a gesture of goodwill'*.

D&G confirmed that it would only take on new cover for kitchen appliances that were eight years or less, and its website made this clear. As to Mrs M's estimate that the appliance was purchased roughly in 2019, it said that it had no reason to dispute this at the time, and *'even if she had been slightly off with her estimate, it wouldn't have mattered.'*

As to communication failures, D&G stated that it notified Mrs M of the decline of the claim by e-mail, but unfortunately received no response to the email *'resulting in the customer chasing us for a few days.'* Following complaint, it agreed to reconsider the claim if the Mrs M could provide proof of purchase. Under the terms of the policy, it said it could ask for additional evidence under the policy, but it accepted that there hadn't been a deliberate attempt to mislead. It said that Mrs M initially agreed to the premium refund. Finally, it said that it hadn't charged Mrs M for the call-out fee that it had paid.

In conclusion, D&G said that it was beyond reasonable doubt that the freezer was much older than 8 years old when the policy was set up, so making it ineligible for cover. It said that had Mrs M told it the correct appliance age, it wouldn't have set up the plan. It felt that she'd falsely stated that her appliance was purchased around 2019, when the engineer confirmed that it was closer to 2009. It considered that the fact that the 8-year limit wasn't included in the plan terms was not relevant fact, and said that it set up the policy in good

faith, based on inaccurate information provided by Mrs M. In the circumstances, it considered that it had treated Mrs M in a fair and reasonable manner.

I now turn to the reasons for upholding Mrs M's complaint. I note that D&G believe that Mrs M misrepresented the age of her freezer when she bought her policy. The starting point in such cases is the relevant legislation being the Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA'). This provides that a consumer needs to take reasonable care not to make a misrepresentation when taking out an insurance policy. It then provides certain remedies to the insurer if there's been a *'qualifying misrepresentation'*.

The insurer's remedy then depends on whether any qualifying misrepresentation is deliberate, reckless, or careless. If deliberate or reckless, the policy can be treated as void and premiums may be withheld. If the misrepresentation is careless however, then to avoid the policy, the insurer must show it wouldn't have offered the policy at all if it wasn't for the misrepresentation. I'm satisfied that D&G wouldn't have offered the policy in this case if it had known the true age of the freezer. There is therefore an onus upon the customer to ensure that the responses which they provide to key questions are correct, true, and accurate.

In this case, it's apparent from the relevant telephone calls in June 2024, that Mrs M was very unsure about the date of purchase of the freezer as she'd bought her property with the freezer already installed. During the initial call, no advice was given to the effect that the appliance had to be up to 8 years old, otherwise no claim would be honoured. To the contrary, despite Mrs M's vagueness and a very rough estimate of the age of the appliance, the call-handler suggested the date of purchase to be 2019. As such, he led her to believe that she would nevertheless be covered. Whilst the second call-handler did provide the 8-year limit, this was as part of the standard sales introduction, and she simply perpetuated the assumptions made by the first call-handler to progress the sale.

In addition to this, Mrs M had provided the make and model number to D&G, including the serial number which commenced '2005', which D&G later assumed to be the true date of manufacture and used this to decline the claim. It was therefore reasonable for Mrs M to have assumed that she had given D&G sufficient information for it to determine whether it should cover the appliance in the light of her uncertainty as to dates.

D&G have accepted that Mrs M didn't deliberately misrepresent the position, I don't consider that Mrs M made a careless misrepresentation. I consider that she answered questions openly and honestly and made it clear that she didn't really know the age of the appliance. On the one hand D&G had made it clear in its standard sales introduction that the appliance had to be up to 8 years-old, and so Mrs M would have been alerted to the importance of the age of the freezer. On the other hand, the telephone conversations with D&G's call-handlers led Mrs M to believe that it was willing to proceed with the policy despite being aware of the model number and despite Mrs M's uncertainty. In addition, the requirement wasn't reinforced in the policy wording. It simply states, amongst other matters, the appliance must be in *'good working order when you take out the policy;'*

I therefore appreciate that Mrs M has unfortunately been left without a working freezer since early October 2024 following the engineer's confirmation that spare parts weren't available. This clearly placed Mrs M in a very difficult position in terms of food preparation for her family over a lengthy period. Nevertheless, this isn't a straightforward matter, and as the 8-year provision had been specified by its call-handler, I can see why D&G initially took the stance that it did. However, bearing in mind the specific circumstances and the content of the sales-calls, I do find that D&G treated Mrs M in an unfair and unreasonable manner in this case. I also consider that it could have handled this claim and communicated with Mrs M more effectively. As such, I'm satisfied that compensation of £100 for the distress and

inconvenience caused is a fair and reasonable outcome in this case for the service failures experienced by Mrs M, and that this is in line with the service's guidelines.

I'm satisfied that D&G should now process this claim and arrange for a replacement freezer to be provided to Mrs M in line with the policy terms and conditions.

My final decision

For the reasons given above, I uphold Mrs M's complaint and I require Domestic and General Insurance Plc to do the following in response to her complaint.

- To process this claim and arrange for a replacement freezer to be provided promptly to Mrs M in line with the policy terms and conditions.
- To pay Mrs M £100 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 14 February 2025.

Claire Jones
Ombudsman